

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT Application of
Lindqvist, et. al.

Group Art Unit: Unknown

U.S. National Phase of PCT/SE00/01049

U.S. Serial No. 10/009,302

Examiner: Unknown

Filed: December 7, 2001

Att. Docket No.: 627-1446

For: METHOD AND DEVICE FOR BATTERIES

* * * * August 13, 2002

**PETITION UNDER 37 C.F.R. § 1.47(b) TO FILE THE PRESENT APPLICATION ON
BEHALF OF AND AS AGENT OF THE NAMED INVENTORS**

Hon. Asst. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Macbat Aktiebolag, having a principle place of business at Box 189, S-671 24 Arvika, Sweden, (hereinafter "Macbat"), hereby petitions the U.S. Patent and Trademark Office under 37 C.F.R. § 1.47(b) to file the above-identified application for regular patent application on behalf of and as agent of the named inventors. The named inventors have refused to sign the Oath.

The required petition fee of \$130 is enclosed. If this fee is missing or deficient, please charge any deficiency to our Deposit Account No. 50-0687 under Order No. 62295.

In accordance with Rule 47(b) and MPEP § 409.03(b):

(A) Macbat has executed the required Oath under 37 C.F.R. § 1.63 and 1.64, original attached. Since Macbat is a corporation, the Oath has been signed by an Officer, President Ake Johansson, and the Officer has signed the Oath on behalf of each non-signing inventor.

(B) The attached Oath states that Macbat is signing on behalf of the inventors. The residence and full address of Macbat has also been disclosed in the Oath. Macbat is the assignee and/or rightful owner of the subject matter claimed in the above-identified application by contract. Macbat, under its previous name Holgia AB, hired the inventors as consultants to develop and produce the presently claimed subject matter under contract, by which Macbat was given exclusive rights to all intellectual property. In accordance with that contract, the inventors signed an assignment document giving all intellectual property rights to Macbat (under the name Holgia AB) in the present invention as filed in the Swedish Patent Office under

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Application No. 9902286-5. See the attached Affidavit Showing Diligent Effort to Obtain Signature at pages 1-2 and enclosure 2. Swedish Patent Application No. 9902286-5 is the priority document for PCT/SE00/01049, of which the present application is a National Phase PCT Application. The inventors also signed the necessary PCT papers during the international stage. See enclosure 4 in the attached Affidavit. Thus, Macbat is the assignee of the present application and/or rightful owner by contract.

(C) Macbat submits herewith conclusive proof that the inventors refused to execute the application papers as sworn to in the attached Affidavit Showing Diligent Effort to Obtain Signature. Macbat, under the name Holgia AB, sent the application papers, including an Oath, to the inventors known address by registered mail on April 18, 2002 requesting that they sign and return the application papers by April 20, 2002. See enclosure 7 in the Affidavit. On July 12, 2002 Macbat sent reminder letters to the inventors by registered mail requesting that they sign the application papers. See enclosure 8 in the Affidavit. The inventors were offered more compensation, beyond that which was required under the original contract, in an effort to have them sign the application papers. See page 2 of the Affidavit. Macbat's counsel also telephoned the inventors in an effort to persuade them to honor the contract and sign the application papers. See page 3 of the Affidavit. To this day, the inventors have refused to sign the application papers, including the Oath.

(D) The last known address of the inventors is:

Frank Lindqvist
Jargeuringen 30, DE-68799 Reilingen, Germany

Henrik Lindqvist
Bergangsvagen 9, SE-662 36 Amal, Sweden

(E) Macbat has made out a *prima facie* case that they hold the entire right to the present application by assignment of the priority document and/or by contract and/or have demonstrated a proprietary interest in the subject matter of the application, as sworn to in the attached Affidavit Showing Diligent Effort to Obtain Signature. As stated in Section (C) above, Macbat, under its previous name Holgia AB, hired the inventors as consultants to develop and produce the presently claimed subject matter under contract, by which Macbat was given exclusive rights to all intellectual property. In accordance with that contract, the inventors signed an assignment document giving all intellectual property rights to Macbat (under the name Holgia AB) in the present invention as filed in the Swedish Patent Office under Application No. 9902286-5. See the attached Affidavit Showing Diligent Effort to Obtain Signature at pages 1-2 and enclosure 2. Swedish Patent Application No. 9902286-5 is the priority document for PCT/SE00/01049, of which the present application is a National Phase PCT Application. The inventors also signed the necessary PCT papers during the international stage. See enclosure 4 in the

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attached Affidavit. Thus, Macbat is the assignee of the present application and/or rightful owner by contract.

(F) The present national phase PCT application was filed incomplete to preserve the rights of Macbat and to prevent irreparable damage. The parent application, PCT/SE00/01049, became abandoned on December 15, 2001, which was 30 months from the earliest priority claimed, June 15, 1999. The present National Phase PCT Application was filed prior to the abandonment of the parent PCT application to properly claim priority thereto. Irreparable damage and loss of rights would have occurred if the present application was not filed before December 15, 2001, since Macbat would have lost the priority rights afforded by the parent PCT application. A Notification of Missing Requirements was mailed on February 14, 2002. Macbat responds to that Notice by filing the present petition to take over prosecution of the present application. Irreparable harm and loss of rights will occur if this Petition is denied since the present application will become abandoned and priority rights to the parent PCT will be lost.

Macbat has complied with the requirements of Rules 47(b) and 63, as well as MPEP § 409.03(b). Accordingly, Macbat respectfully requests that this Petition be granted and that it be granted permission to file the above-identified application for regular patent application on behalf of and as agent of the named inventors.

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Respectfully submitted,
Manelli Denison & Selter, PLLC

By


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